

Extra Information
3/9/09

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Sent: Friday, March 06, 2009 5:15 PM
To: Eldridge, James (SEN)
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The Commonwealth of Massachusetts

MASSACHUSETTS SENATE

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Dear Municipal official:

It has been a pleasure attending Board of Selectmen meetings in my district over the last few weeks, and I anticipate attending a few more each week until the end of March, by which time hopefully I will have seen all of you. It is so valuable to me to come to your meetings periodically, and to hear directly from you about your concerns and initiatives. You have made many constructive suggestions, which I appreciate. I hope it is clear that my staff and I are available for your community's needs, as well as any specific questions you have about the state budget, state laws, or ways that we can help your community.

In my visits, many of you have asked questions about the FY2010 Commonwealth budget (in particular Chapter 70 and local aid numbers) as well as about the federal economic stimulus plan and the impact that it will have on the Massachusetts economy, and the Commonwealth's towns and cities. We are still getting information about both the possibility of federal funding for stimulus projects submitted by your community and the status of federal funding for the purpose of local aid, but it is clear that the Patrick administration is still reviewing the federal stimulus funding at the current time.

Through meetings, conversations, and correspondence, you have given me many helpful suggestions on ways that the state can provide municipal relief, including comments on the proposed meals and hotel taxes, removing the telecom tax exemption, municipal health insurance reform, modernizing the procurement laws, encouraging regionalization, and more. If you have not yet had the chance to weigh in on these or other issues relative to your community's bottom line, I encourage you to contact me directly at James.Eldridge@state.ma.us or (617) 722-1120.

FY 2010 budget.

I this week with the Chairman of Senate Ways and Means, Senator Panagiotakos, and was able to ask him about his expectations for Chapter 70, local aid, and the prospects for a Joint Resolution on Local Aid numbers.

From this meeting, I want you to know that I am optimistic that the Chapter 70 and local aid numbers included

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in House 1 will hold for the final FY2010 budget, but only if the economy does not continue to deteriorate. The revenue numbers for February were disappointing, but if March and April meet estimates, the Governor's numbers should hold and can be relied upon. A key reason why I believe this is likely is the indication that some of the federal stimulus money will be used to supplement local aid.

I know that it is extremely frustrating to approach your annual town meetings with a high level of uncertainty and the likelihood of a reduction in services. **I want you to know that I am pressing for a Joint Resolution on Local Aid, but at this time it is not clear when the Legislature will agree on this, as the economic climate remains uncertain.**

Stimulus Funds in Massachusetts.

We continue to communicate with the Lieutenant Governor's office and the staff at the Executive office of Administration and Finance who are working hard to review the provisions of the federal stimulus bill and to expedite decisions that have to be made at the state level to accept and utilize the funds.

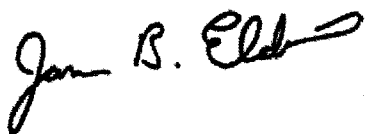
A common question is: How the State Fiscal Stabilization Fund (approximately \$999.26 million for Massachusetts) will be allocated to communities. The Governor has supported all communities being level funded at FY2009 levels, as laid out in House 1, and he has voiced his hope to use the stimulus funds to bring the below foundation communities up to foundation level in FY2010 as the stimulus funds allow. So far, all we know is that the majority of the funds will be allocated to local school districts according to formula, but how that will be done is not yet known.

Municipal Partnership Reforms.

As you know, the Governor has filed the Municipal Partnership-2 bill, a compilation of proposals in the areas of procurement, municipal health care, employee benefits, facilitation of regionalization efforts, and reducing the need for special legislative exemptions. The legislature is also awaiting the filing of a second municipal relief bill by a legislative commission that has been working on similar issues. Once that second bill is filed, we anticipate a hearing on all of these proposals, which will be held by the Joint Committee on Municipalities and Regional Government. As you know, I am the Senate Chair of that Committee, and I look forward to digging into these proposals and facilitating an efficient and timely reporting of a bill for the Legislature to consider. I have attached a policy brief of the Governor's Municipal Partnership-2 Bill. This document, prepared by the Executive office of Administration and Finance, is a useful summary of the proposals in this legislation.

I will continue to send you periodic updates with information that will help you as you make important budget decisions for your community, and please let me know if there is any particular data that you are looking for from my office. If there is anything that my office can do or any questions you may have, please do not hesitate to contact me.

Best Wishes,



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3/9/2009

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MUNICIPAL PARTNERSHIP ACT II

Policy Brief

The Patrick-Murray Administration's "Municipal Partnership Act II" legislation, filed January 28, 2009, provides cities and towns with the tools they need to respond to the present fiscal emergency by managing limited resources more efficiently. It enables municipal officials to control their employee health care costs by easing the requirements for entry into the state Group Insurance Commission and holding municipalities financially accountable for providing cost-efficient health care. It requires each community to move all its eligible retirees to Medicare coverage, and provides some pension funding relief within fiscally responsible parameters. Several provisions encourage and facilitate regionalization of municipal services and reform municipal procurement and advertising requirements, thus providing cost efficiencies without jeopardizing transparency or quality. Finally, this legislation allows municipalities more legal flexibility in such areas as setting the permissible number of alcoholic beverage licenses, waiving the maximum age of police officers and firefighters, and fixing inadvertent procedural mistakes in calling town elections and town meetings, thus dramatically reducing the need for special legislative exemptions.

Together with the additional municipal revenues proposed in the Emergency Recovery Bill (from state and local option meals and hotel/motel rooms taxes, as well as the telecommunications tax loophole closing – see description at end of this document), these measures can help cities and towns weather the present fiscal downturn, save hundreds of millions of dollars over time, and take significant pressure off property taxes now and in the future.

A. TOOLS FOR MANAGING EMPLOYEE BENEFITS, IN THE CURRENT FISCAL EMERGENCY AND BEYOND

RETIREMENT SYSTEM FUNDING RELIEF

Section 54 allows communities seeking pension funding relief in the current financial climate to pursue one of two options. Both options provide some relief from required appropriations in the near future. The actuary of PERAC may establish appropriations in fiscal years 2010 and 2011 that are equal to the appropriations made in fiscal year 2009. Alternatively, in any system which chooses to conduct an actuarial valuation as of January 1, 2009, the actuary may establish the following reduced appropriations: (a) in fiscal year 2010, an appropriation that is less than the appropriation made in fiscal year 2009 but at least 90% of the appropriation made in fiscal year 2009; (b) in fiscal year 2011, an appropriation that is less than the appropriation made in fiscal year 2009 but at least 95% of the appropriation made in fiscal year 2009; and (c) in fiscal year 2012, an appropriation that is equal to the appropriation made in fiscal year 2009.

TRANSFER OF ELIGIBLE MUNICIPAL RETIREES INTO MEDICARE

Sections 16 and 17 reduce municipal benefit costs by requiring that all eligible retired local employees enroll in Medicare as their primary source of health insurance coverage. (The state requires this of their employees.) Municipalities currently have the option of adopting Section 18 of Chapter 32B to implement this requirement, but a significant fraction of cities and towns have not done so. As a result, their retirees remain in the community's health plan rather than enroll in Medicare, at considerable and unnecessary expense to local taxpayers. To date, 174 municipalities have reported to DLS that they have voted on adopting Section 18: only 107 have accepted, 64 have voted not to do so.

PROVISION OF GIC COMPARABLE HEALTH INSURANCE

Sections 18 and 19 require that municipalities either enter the GIC or achieve GIC-equivalent or better rates through products other than the GIC, including joint purchasing programs. The GIC entry threshold is lowered from agreement to enter GIC by 70% of representatives of the Public Employee Committee to 50% to help municipalities meet this requirement. If a municipality does not meet the standard with assistance of the lower threshold, that municipality's unrestricted general government aid will be reduced by the difference between their rates and the GIC rates. The Executive Office for Administration and Finance is charged with producing regulations creating a process by which to evaluate a municipality's health insurance rates.

PRO-RATING OF INSURANCE FOR PART-TIME EMPLOYEES

Section 15 allows a municipality to pro-rate its contribution for a part-time employee's health insurance premium based on the number of hours per week worked by the employee.

REVISED PROVISIONS FOR TRANSFER OF MUNICIPAL RETIREMENT SYSTEMS INTO PRIT

Section 13 provides that a system that has voluntarily transferred its assets to PRIT before receiving a notice from PERAC that the system is underperforming shall be exempt from the requirement that the transfer be in perpetuity. Section 14 provides a simplified appeal process for those systems that appeal for an exemption from a transfer order.

B. TOOLS TO ENCOURAGE AND FACILITATE REGIONALIZATION OF MUNICIPAL SERVICES**COLLECTIVE BARGAINING AND REGIONAL ENTITIES**

Section 22 provides that a municipal decision to enter into an intermunicipal agreement or join a regional entity shall not be subject to collective bargaining.

JOINT OR REGIONAL ASSESSING AGREEMENTS

Section 26 clarifies the law permitting joint or cooperative assessing agreements to allow cities and towns to share assessors as well as assessing department staff.

COLLECTIVE PURCHASING BY EDUCATIONAL COLLABORATIVES

Section 23 allows education collaboratives to enter into bulk purchasing agreements with public entities outside our state borders, to further leverage economies of scale and save and return money to participating school districts.

MUTUAL AID AGREEMENT

Section 24 allows cities, towns and other governmental units in Massachusetts to join a statewide mutual aid agreement to provide police, fire, emergency medical, and other public safety assistance to other municipalities.

C. PROVISIONS REFORMING MUNICIPAL PROCUREMENT AND ADVERTISING REQUIREMENTS, THUS PROVIDING COST EFFICIENCIES**INCREASED BIDDING THRESHOLDS**

Sections 4 to 6 increase the thresholds for municipal procurements, allowing them to award contracts of up to \$10,000 based on sound business practices and to award contracts between \$10,000 and \$25,000 after soliciting three quotations.

INCREASED THRESHOLD FOR CONSTRUCTION BONDS

Section 52 provides that a construction payment bond is required for contracts of more than \$25,000, an increase from the existing levels of \$2,000 for municipalities and \$5,000 for the Commonwealth.

LONG-TERM MUNICIPAL LEASES

Section 21 allows municipalities to enter into leases of up to 99 years. Currently, a lease of more than 10 years requires a home rule petition to the legislature.

INTERNET ADVERTISING OF PROCUREMENTS

Sections 1, 7 and 8 allow municipalities and state agencies to post notices of procurements on the internet instead of in a local newspaper. Municipalities could post the notices on either their own or the commonwealth's website. The Operational Services Division estimates that this change will save cities and towns thousands of dollars each year. Savings to municipalities could amount to as much as \$250,000 per year statewide.

REVERSE AUCTIONS

Sections 2 and 10 allow procurement officers to use reverse auctions to buy products and services from sellers who bid against each other for the product or service being auctioned. This process provides a method of acquiring best pricing from qualified bidders.

SUBMISSION OF ELECTRONIC BIDS

Sections 3, 7 and 9 will allow municipalities to accept online/electronic bids and proposals on their own website or on the Commonwealth's procurement website, Comm-PASS. This section provides environmental and financial benefits and allows for greater flexibility for municipalities and bidders.

D. PROVISIONS ALLOWING MUNICIPALITIES MORE LEGAL FLEXIBILITY IN CERTAIN AREAS, THUS DRAMATICALLY REDUCING THE NEED FOR SPECIAL LEGISLATIVE EXEMPTIONS**LOCAL LICENSING AUTHORITY DISCRETION TO ESTABLISH QUOTA**

Sections 49 – 51 give the legislative body of each municipality that has voted to grant licenses for the sale of alcoholic beverages the discretion to determine the number of licenses to be issued.

CIVIL SERVICE MAXIMUM AGE

Sections 11 and 12 authorize an appointing authority to apply to the personnel administrator (the personnel administrator of the human resources division within the executive office for administration and finance) to waive the civil service maximum age requirement for certain individuals based on extenuating circumstances, consistent with the fundamental purposes of the requirement.

VALIDATION OF LOCAL ELECTIONS BY SECRETARY OF STATE

Section 20 allows the Secretary of State to validate a town election or actions taken at a town meeting where an inadvertent failure to comply with certain procedural requirements occurred, but the result did not contradict the fundamental purposes of those requirements and the error was unlikely to affect the outcome of the election or meeting.

E. TOOLS ALLOWING ENHANCED FLEXIBILITY AND IMPROVED PROCESSES IN MUNICIPAL FINANCE

AMORTIZATION OF FY09 REVENUE DEFICIT

In recognition that mid-year 9C cuts are very challenging for cities and towns to manage, Section 55 gives municipalities the option of amortizing their fiscal year 09 revenue deficit up to the amount of their 9C cut over the next three fiscal years.

REVIEW OF ASSESSMENT CERTIFICATION SCHEDULE

Section 25 allows DOR to adjust the scheduled year for triennial certification of local assessing practices in order to equalize the number of communities scheduled in each year and to facilitate or implement regional and other cooperative assessing arrangements. This will enable DOR and local assessors to more efficiently and effectively carry out their responsibilities in ensuring current fair market values on an annual basis. Similar and nearby communities will be able to share consultants and market data, thereby resulting in more accurate assessments for local taxpayers.

FLEXIBILITY IN MUNICIPAL AND REGIONAL SCHOOL DISTRICT BORROWING

Sections 27 – 37 and 48 increase flexibility in municipal and regional school district borrowing by allowing borrowing for terms consistent with the maximum useful life of the asset, but not more than 30 years, as determined in accordance with guidelines established by the Division of Local Services of the Department of Revenue. The bill also increases flexibility for emergency borrowing, expedites the process for achieving savings through refinancings and removes overly restrictive requirements for amortization of debt.

ELIMINATION OF FEE FOR STATE HOUSE NOTES

State House Notes are debt instruments for cities, towns, counties and districts certified by the Director of Accounts. Section 38 eliminates the fee charged to municipalities for the processing of State House Notes by DLS. The revenue generated annually is a nominal amount. Eliminating this fee streamlines the DLS processing of the notes and reduces costs for local governments.

STREAMLINED ABATEMENT PROCESS

Section 39 streamlines the process by which local assessors can grant abatements without receiving prior approval from the Department of Revenue. The commissioner will issue guidelines granting authority to abate for reasons determined by the commissioner to be in the public interest.

AUDIT OF PERSONAL PROPERTY RETURNS

Sections 40 -47 allow the assessors to subpoena and audit the records of taxpayers who are required to file an annual return of their taxable personal property in order to determine whether the return is complete and accurate. The assessors will have three years to audit the records. If taxable property is discovered, they will have six months to make an omitted or revised assessment. Taxpayers assessed under those sections have the right to apply for an abatement within 3 months after the additional tax bill is mailed. (Current law only allows assessors to revise tax assessments where the underassessment was unintentional due to clerical or data processing errors and only allows them until June 20th of the same fiscal year to uncover and assess for underreporting.)

SEPARATE TAXATION OF CONDO DEVELOPMENT RIGHTS/OTHER INTERESTS

Currently, when a phased condo development is built, common areas slated to be built out as more units cannot be taxed. This is unique to condo developments. Only developers of *phased* condominiums receive this tax break. A developer who builds an *ordinary subdivision* must pay taxes on the land value of the property before and during construction. Section 53 allows taxation of developers' rights for phased condo construction. This provision brings tax policy on phased condo development into alignment with other types of developments. In addition to the value of development rights, the value of certain other interests such as land enhancements (for example, golf courses and parking lots equally accessible to the public and condo owners), also escapes taxation. This section allows taxation of the true land value due to these enhancements as well.

Municipal Revenues Proposed in the EMERGENCY RECOVERY BILL

The Emergency Recovery Bill provides urgently needed additional municipal revenues to help offset the impact of the local aid reductions, help cities and towns weather the present fiscal downturn, and take significant pressure off property taxes now and in the future.

TELECOMMUNICATIONS TAX LOOPHOLE CLOSURE

Sections 21 through 24 of the Emergency Recovery Bill eliminates the property tax exemption for certain machinery of telephone and telegraph companies (estimated revenue \$26 million) and exemption for poles and wires owned by telecommunications companies and located on public ways (estimated revenue \$26 million).

STATE MEALS AND HOTEL/MOTEL ROOMS EXCISE TAX

Section 31 provides a 1 percent increase to the statewide meals tax to help mitigate cuts to local aid (estimated revenue \$125 million). Sections 27 and 28 provide a 1 percent increase in the statewide hotel/motel room occupancy tax to help mitigate cuts to local aid (estimated revenue \$25 million).

LOCAL OPTION MEALS AND HOTEL/MOTEL ROOMS EXCISE TAX

Sections 25 and 31 allow cities and towns, at local option, to levy a 1 percent excise on meals. (estimated revenue \$125 million).

Sections 29 and 30 allow cities and towns, at local option, to levy an additional 1 percent excise on hotel/motel stays (estimated revenue \$25 million).